In the Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-68

CLARION CORPORATION,

Petitioner,

vs.

AMERICAN HOME PRODUCTS CORPORATION, LEHMAN BROTHERS, and RICHARD F. WATT, et al.,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

MEMORANDUM OF PETITIONER CLARION CORPORATION REQUESTING RECONSIDERATION OF ITS PETITION FOR WRIT OF CERTIORARI

Reconsideration is respectfully requested of the Court's denial of certiorari on the grounds that petitioner was unfairly denied an evidentiary hearing it had requested in the District Court which would have given it a fair opportunity to have introduced into the record the docu-

mentary evidence proving that the record as it now stands conceals the truth about the corrupt tampering and covering up of crucial evidence and the scandalous methods used to coerce petitioner into an involuntary acceptance of the still unconsummated settlement.

A perceptive perspective is thrown on the case by Mr. Watt's attorneys, Altheimer & Gray, who explicitly state in their letter dated June 3, 1974 that the Court of Appeals decided the case on April 2, 1974 on the basis of the record made in the District Court. Since the documentary evidence proving petitioner's position was unfairly blocked from being made part of the record, the clear meaning of the Altheimer & Gray letter is that the Court of Appeals decided the case on the basis of a record that does not reflect the truth about the corrupt District Court proceedings.

Altheimer & Gray filed a copy of its June 3rd letter with the Court of Appeals so that this illuminating document is part of the judicial record in the case.[1] Copies of the letter were also sent Mr. Watt's co-respondents, American Home and Lehman and as pointed out in petitioner's reply brief (sent to the Court by CERTIFIED MAIL September 26, 1974), American Home and Lehman by their silence signified they acquiesced with the Altheimer & Gray statement that the case was adjudicated on the basis of the District Court record. American Home's and Lehman's

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[1] The Altheimer & Gray letter was a denial to petitioner's special request for access to its own papers in the hands of Mr. Watt who had previously denied petitioner reasonable access to the papers. These are papers petitioner needed to defend against Mr. Watt's attorney's lien action and to pursue petitioner's action seeking to re-open the underlying litigation against American Home and Lehman.

tacit acquiescence also extends to the further Altheimer & Gray statement that the Supreme Court also will decide the case on the basis of the District Court record.

The District Court record bears out the undisputed circumstances that respondents, in collusion with a trial judge who is clearly implicated in tampering with crucial evidence, exercised complete control over what they wished or did not wish to go into the record. Through their complete control over the record, the parties to the cover-up were able as an integral part of the cover-up plan to achieve the kind of appellate review stated to be the case by Altheimer & Gray. In short, the implications of the Altheimer & Gray letter are that the District Court proceedings constitutes a massive power play that flagrantly violates all legal concepts of fundamental fairness and due process.

The prejudicial one-sided character of the District Court proceedings is illustrated by the Court of Appeals' decision turning on its treatment of petitioner's August 1962 letter as the controlling factor in judging the conduct of petitioner's attorneys and the trial judge in their handling of the case. Respondents, however, never disputed that the documentary evidence that the denial of the evidentiary hearing kept out of the record conclusively proves not only that the August 1962 letter is not a controlling factor, but more importantly it was cancelled and has no applicability to the main issue that Lehman, in the 1965 merger transaction that is the subject of the litigation, appropriated under false pretenses $916,000 that is recorded in American Home's books as a payment for a "finder's fee" which by American Home's own judicial admission only the petitioner is entitled to receive. (See pages 2 and 3 of petitioner's reply brief.)

The Altheimer & Gray letter points up the pivotable significance of the evidentiary hearing that was unfairly denied in the District Court in that it was the linchpin action that would have permitted a true record to have been made for appellate review of the corrupt actions in the District Court. To redress a corrupt condition which, if allowed to go unchecked, will permit the respondents to benefit from their own wrongdoings in perverting the judicial processes, the Court is respectfully urged, as the focal point of the case, to grant petitioner the right to the evidentiary hearing it had requested so that the case can be adjudicated on the basis of a truthful record.

Respectfully submitted,

PAUL J. KLEIN
141 West Jackson Blvd.,
Chicago, Illinois 60604
(312) 922-1241
Petitioner's president
Pro se